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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,806	02/21/2002	Franz Josef Gassmann	298-154	9917

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EXAMINER	
SMITH, ARTHUR A	

ART UNIT	PAPER NUMBER
2851	

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/080,806	GASSMANN, FRANZ JOSEF	
	Examiner	Art Unit	
	Arthur A Smith	2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 November 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 April 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Applicant's arguments filed 11/13/03 have been fully considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Page 4 lines 7-12 of the specification does not support the limitation of wherein the one or more white light spots with known spectral intensity distribution and/or chromaticity coordinates and/or brightness, which are recorded at the **same time as a picture is taken**.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6, 8, 9, 11-13, 15, 18 and 23-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "camera recording device" in lines 6 and 7. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-6, 8, 9, 11 12 13 15 18 and 23-26 recites the limitation "light signal" or "light-signal-creating media." There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz et al. (USPN 4511229) in view of Kaplan (USPN 4977521). (Note the rejection is based on the Examiner's best interpretation of the claims as they now stand.)

In reference to claim 1, 11-13,16, 19 and 20, Schwartz et al. discloses a recording device for recording an image information, characterized by the fact that the recording device has one or more media for creating light signals with know spectral intensity distribution and/or chromaticity coordinates and/or brightness, col. 3 lines 1-17 and col. 5 lines 23-27, which are recorded at the same time as a picture is taken by means of a recording medium, ref. 270, positioned in or capable of being positioned in or capable of being positioned in the recording device, col. 6 lines 49-56. Schwartz et al. invention is directed to color compensation and therefore uses colored light signals

instead of the claimed limitation of one or more white light spots. Kaplan discloses a means for corrected variations in a photographic medium by printing a calibration pattern on the medium after the medium is exposed, col. 5 line 66 – col. 6 line 11. Kaplan further discloses wherein the calibration pattern is based on a gray scale (varying brightness), col. 6 lines 9-11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a calibration pattern utilizing varying brightness in the camera of Schwartz et al. This would be done to allow for calibration of black and white films that are interchangeably with color films used in the single lens reflex cameras disclosed by Schwartz et al.

In reference to claim 2, Schwartz et al. discloses wherein the light signal has wavelengths in the visual range or in the range of shorter wavelengths, col. 4 lines 9-12.

In reference to claim 3, Schwartz et al. discloses wherein the light signal consists of white light, col. 5 lines 16-22.

In reference to claim 4, Schwartz et al. discloses wherein by means of the light-signal-creating media several separate light signals with respective known chromaticity coordinates that can be recorded by the recording medium can be created, col. 5 lines 23-27.

In reference to claim 5, Schwartz et al. discloses wherein several spatially and/or spectrally separate light signals can be created, col. 5 lines 23-27.

In reference to claim 6, Schwartz et al. discloses wherein by means of the light-signal-creating media light a red, a green and a blue light signal can be created, col. 5 lines 23-27.

In reference to claim 7, Schwartz et al. discloses wherein the red, the green, and the blue light signals together produce white light, col. 5 lines 17-27

In reference to claim 8, Schwartz et al. discloses wherein by means of the light-signal-creating media a light signal complementary to red, a light signal complementary to green, and a light signal complementary to blue can be created, col. 5 lines 54-57 and col. 3 lines 13-17 (any colors from the "Macbeth" test chart can be selected).

In reference to claim 10, Schwartz et al. discloses wherein the camera is an analog or digital photo camera, an analog or digital movie camera, or a TV camera, col. 3 lines 35-37.

In reference to claim 14, Schwartz et al. discloses wherein the camera or the recording medium is executed in such manner that the image information is recorded in several spectral ranges, col. 5 lines 23-27.

In reference to claim 15, Schwartz et al. discloses wherein the image formation is recorded in the three spectral ranges of red, green, and blue, or complementary ranges, or between the blue/green and green/red ranges or ranges complementary thereto, and the light-signal-creating media are executed in such manner that the light signal can be recorded in each of these spectral ranges, col. 5 lines 23-27.

In reference to claim 17, Schwartz et al. discloses wherein the light-signal-creating media include light-emitting diodes, incandescent lamps, laser diodes, fluorescent diodes, luminance diodes, glow lamps, or other light media, col. 5 lines 23-27.

In reference to claim 18, Schwartz et al. discloses wherein the light-signal-creating media have on or more chromaticity and/or intensity filters positioned between the lighting medium and the recording medium, col. 6 lines 28-31

In reference to claim 21, Schwartz et al. discloses wherein the calibration parameters are used to minimize the divergence of the reconstructed light signal from the camera-created light signal or the light signal complementary thereto in the image reconstruction, col. 4 lines 57-68.

In reference to claim 22, Schwartz et al. discloses a camera with film or an electronic device positioned within the camera as recording media, an imaging or camera lens positioned in front of an opening into the camera and arranged to create an image of an object outside the camera upon the recording media, col. 6 lines 35-52.

In reference to claim 23, Schwartz et al. discloses wherein the recording medium is film, the light-signal-creating element is positioned in front of the film, col. 6 lines 35-52. Schwartz et al. does not disclose an imaging lens for the light-signal-creating element positioned between the same and film. It would have been obvious to one of ordinary skill in the art at the time of the invention to realize that a imaging lens could be incorporated between the light-signal-creating element and the film. Schwartz et al. discloses that LEDs could be used as the light-signal creating element, col. 5 lines 24-27. One would incorporate an imaging lens to concentrate the light on the film if the distance between the LEDs and the film was too great.

In reference to claim 24-26, Schwartz et al. discloses wherein the recording media is a film comprising an image area and recorded/developed light signal points of

a light-signal-creating element for white light, white light having different intensity values or white light split in spatial separated RGB-points, col. 3 line 55 – col. 4 line 18.

Response to Arguments

Applicant's arguments filed 11/13/03 have been fully considered but they are not persuasive. The Examiner believes that the Applicant's interpretation of the Schwartz et al. reference is incorrect. It is not the sole goal of Schwartz et al. to sample the light source illuminating the scene. The purpose of sampling the light source illuminating the scene is to provide for color compensation of the film during developing to provide for a more accurate photograph, col. 1 line 65 – col. 2 line 22. Further, Schwartz et al. not only discloses that the light source of the scene can be separated into different colors and recorded on the film but alternatively individual light sources such as LEDs could be used to produce the different colors, col. 5 lines 24-27. Note that this limitation of individual LEDs is only present in claim 17 of the present application.

It appears that the Applicant has amended claim 1 to add the limitation of "one or more white light spots." However, by removing the limitation of "light signal" the Applicant has created 112 problems as discussed above. In light of this amendment the Examiner has removed the 102 rejection based on Schwartz et al. and applied a 103 rejection in view of Kaplan.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Teremey et al. (US 5734941 and US 5634156), Disbrow (US 4365882) and Oguchi et al. (US 4211558) all disclose methods of providing optical

marks to film at the time of photography to aid in the calibration of the film during processing.

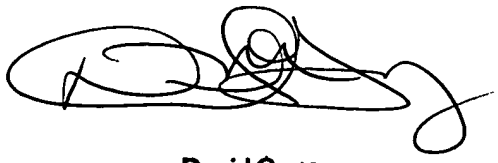
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur A Smith whose telephone number is (571) 272 2129. The examiner can normally be reached on Monday - Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays during the same hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on 571-272-2112. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



AAS
February 20, 2004

David Gray
Primary Examiner